

## **complaint**

Mr A complains that the timeshare memberships that he financed with Clydesdale Financial Services Limited trading as Barclays Partner Finance (BPF) were mis-sold to him. He also says that he couldn't afford to repay the loans he took.

## **background**

Between 2007 and 2011 Mr A bought three memberships with his partner, on finance with BPF. He says that he was told that his units would resell after 12 months, but this didn't happen. He also says that the loans were unaffordable. To resolve the complaint he wants BPF to refund his repayments and take over his memberships.

BPF said that Mr A complained too late about the first purchase, so it didn't think we could look at this part of the complaint. It didn't think there was evidence that the other two purchases were mis-sold to Mr A.

Our adjudicator didn't recommend the complaint should be upheld. She thought;

- that our rules didn't allow us to look at the first membership bought in 2007, as he complained more than six years after the purchase and he would have been aware that he had cause to complain, more than three years before he complained.
- the documentation didn't evidence that the second or third purchases were mis-sold.
- there wasn't enough evidence to say that the loans were unaffordable.

Mr A disagreed; he requested a review by an ombudsman.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I hope Mr A doesn't feel that I'm being discourteous if I don't address every point that he has raised. My role is to focus on the key issues which I think affect the outcome of his complaint. For clarity I can only consider the purchases made with finance from BPF and I'm unable to look at Mr A's partner's concerns within this complaint, as she signed separate finance agreements.

Mr A says that he was told that the memberships were an investment opportunities and the units would resell after 12 months. He said that when this didn't happen he was told to reinvest into other units would resell after 12 months. Mr A says he never thought his loans would run full term, as he was told that he'd be able to repay them and make a profit. This has left him in financial difficulties. He also thinks that the loans were unaffordable.

### *first purchase*

There are rules about what complaints we can and can't look at. They say that, where a business doesn't agree, we can't consider a complaint that was made more than six years after the event complained about, and more than three years after the complainant should have become aware that they had cause to complain.

Our rules can be found online in the DISP section of the *Financial Conduct Authority Handbook*.

The first purchase was made in November 2007. But Mr A didn't complain about it to BPF until October 2014. So I'm satisfied that it was made outside the six year time limit.

I've next considered the three year time limit. Mr A told us that he was told that the membership would be resold after 12 months. So when this didn't happen at the end of 2008, Mr A should have been aware that he had cause to complain, but he didn't complain until October 2014. So his complaint was made too late.

Whilst I appreciate that Mr A feels that we need to consider this part of his complaint to get the full picture, our rules don't allow us to look at his concerns about affordability of the loan or the mis-sale of the membership bought in November 2007.

#### *second and third purchases*

BPF says that the supplier told it that Mr A would've been advised during the sales that neither the resale of the units nor a timeframe for resale could be guaranteed.

Mr A has asked us to listen to a recording with a representative of the supplier, regarding the resale guarantee after 12 months. The recording is of very poor quality and is widely available on the internet. So I don't think I can rely on this to tell me what happened when Mr A bought the second and third transactions.

Because it's difficult to say what Mr A was told about the resale of his units, I've looked at what the relevant documentation says;

Looking at the completion statement signed by Mr A for the units bought in March 2009; Paragraph 7 and 8 make it clear that the purchase of the units isn't for investment purposes and says that no guarantee is given for resale or resale times.

In addition Mr A signed a letter in March 2009 which says that if he wanted to rent the units, he could, but states that no guarantee is given for rental income.

Similarly the compliance statement Mr A signed for the units bought in August 2011, also says that the purchase is primarily for holidays and not for investment, it states that no guarantee is given for the resale of the units.

A person is taken as having read and understood the documentation that they sign. And I don't think it was reasonable for Mr A to rely on what he was told; when the terms he agreed to directly conflicted with what he was told. Because of this, I don't think the memberships bought in March 2009 or August 2011 were mis-sold to Mr A. And I don't have grounds to tell BPF to refund his payments and take over his memberships.

#### *affordability*

Mr A says that he doesn't think that the loans granted in March 2009 and August 2011 were affordable.

I can see that both BPF and our adjudicator have asked Mr A for information to assess whether he could afford to repay the loans when they were granted. However, the information provided doesn't cover the period when these loans were granted. So I'm unable to find that the loans were unaffordable.

If Mr A is in financial difficulties he should make contact with BPF on the details that it has given him to discuss his difficulties.

**my final decision**

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 30 December 2015.

Karen Dennis-Barry  
**ombudsman**